

**CITY OF NORWICH
INLAND WETLANDS, WATERCOURSES AND
CONSERVATION COMMISSION**

**November 6, 2008 Regular Meeting Minutes
Council Chambers City Hall 100 Broadway, Norwich, CT**

Agenda Items A, B & C – Call To Order, Roll Call, Determination Of Quorum:

Acting Chairman Richard Morell called the meeting to order at 7:00 p.m.

Present: Richard Morell
Douglas Lee
Arthur Sharron, Alt.
Brandon Hyde, Alt.
Jeremiah Lowney
Barbara Rothstein
Robert McCoy, Alt.
Ralph Page

Absent with notification: Raymond Baribeault

Also Present: Peter Davis, Director, Tianne Phoenix Curtis, Recording Secretary,
Atty. Karl Sternloff, Corporation Counsel

A quorum was present and all members present were voting.

D. Minutes:

Upon motion by Arthur Sharron and second by Ralph Page, the Commission voted unanimously to APPROVE the minutes of the October 2, 2008 regular meeting.

E. Communications: Letter from A.C.O.E. regarding Kudlach property (distributed in Member packets.)

F. Public Hearings:

1. **IWWCC – 08-04 - 60.6 acres of land on the west side of Scotland Road, the south side of White Plains Road and the east side of Hansen Road comprised of the following four parcels:**
South side White Plains Road, Norwich Assessor's Map 17, Block 1, Lot 9, Norwichtown Development LLC, owner; 115 Hansen Road, Norwich Assessor's Map 22, Block 1, Lot 10, Norwichtown Development LLC, owner
West side Scotland Road, Norwich Assessor's Map 23, Block 1, Lots 1-3, Norwichtown Development LLC, owner; 145 Hansen Road, Norwich Assessor's Map 22, Block 1, Lot 5, Thomas R. and Colleen M. Abele, owner – Application of Norwichtown Development LLC - for Active Adult Community, including wetland/stream-crossing utilities.

Acting Chair Richard Morell opened the Public Hearing. Atty. Karl Sternloff explained the procedure for a Public Hearing in detail and stated, for the record, the purview of the Inland Wetland Watercourse Conservation Commission. Barbara Rothstein recused herself from the application on

the record. Peter Davis read items "A-DDDD" into the record and turned the presentation over to the Applicant. Atty. David Sherwood on behalf of the Applicant and submitted a presentation outline which was subsequently marked exhibit "EEEE." Atty. Sherwood gave a brief history of the site that was once a sawmill and stated that the contamination at the site has been remediated to the satisfaction of the Uncas Health District. Atty. Sherwood stated that they are proposing three separate wetland crossings, and that the 285 sf of wetlands they are proposing to fill is man-made and appears to be an old foundation. Atty. Sherwood stated the total impact is 4530 sf of the 60.6 acres site.

Don Fortunato, CSS LEP stated that Michael Schaefer originally flagged the wetlands, however he concurs with the delineation and had been on-site for soil sampling. Mr. Fortunato stated the nature and types of soils present and submitted two pages of soil photos that were marked exhibit "FFFF" and watershed form marked exhibit "GGGG." Mr. Fortunato stated there are no threatened or endangered species on site or in the vicinity.

Project Engineer Pat Lafayette itemized the proposed wetland crossings. Mr. Lafayette stated also that machinery would be stored upland when not in use and brought down as necessary, and that off-site activities, including the proposed utilities crossing under Byron Brook culvert, would be in pavement and erosion and sediment control measures will be provided at both sides of pavement. Commissioner Hyde questioned the details for proposed mitigation at crossings. Mr. Lafayette responded with their restoration and mitigation plan and stated that invasive species will be removed.

Norm Thibeault, Jr. PE presented the six proposed drainage basins and gave multiple year storm data and calculations, stating the peak from the impervious surfaces only will not increase the net runoff rate. Mr. Thibeault stated the 100-yr would result in a 3% decrease in peak runoff rate and that the pipe termination was determined suitable for the basin location. Mr. Thibeault noted the depth of the basins range from 4-6' and the bottoms will support wetlands vegetation and can contribute toward wetland mitigation area, and that subsurface systems were not considered due to a lack of flat lands as the existing slope is unsuitable for the type of system.

Acting Chair Richard Morell opened the floor to those wishing to speak in opposition. Speaking in opposition were:

Keith Ripley, 9 Meadow Lane, submitted correspondence which was marked Exhibit "JJJJ" which Acting Chair Richard Morell read into the record in its entirety which stated his concerns relative to the Fairview Reservoir.

John Oldfield, 185 Lawler Lane, spoke in opposition.

Carolyn Horton, 131 Hansen Road, spoke in opposition.

Atty. Eric Knapp submitted request for Intervener status (Exhibit "KKKK") and the Commission recessed at 9:13pm.

Commission resumed at 9:21 pm and Corporation Counsel Karl Sternlof stated that the request for Intervener status had been accepted.

Atty. Eric Knapp introduced their biologist George T. Logan, Michael Schaefer of REMA Ecological Services. Mr. Logan submitted his summary of findings report (Exhibit "LLLL") and the resumes of himself & Sigrun N. Gadwa, MS (Exhibit "MMMM".) Mr. Logan stated that he is representing Dr. Pierce Browning and the residents' concerns for the potential for long-term negative impact, quality of water, and quality of resources. Mr. Logan stated that the discharge point for basin #3 would be located in what he determined to be a vernal pool. Sigrun N. Gadwa, MS, associate to Mr. Logan, reported her findings from her site visit and spoke relative to the purity of the stream and wildlife.

Marc Goodin, PE submitted Exhibits "NNNN" & "OOOO" review reports and stated that the plans as submitted have numerous defects including being incomplete, negative impact to wetlands, and failure to maintain best management practices. Mr. Goodin summarized his review of the applicant's submitted plans.

Eric Knapp made his closing statements and stated that the Commission should deny the application given the lack of information provided.

Dr. Pierce Browning III, 671 Scotland Road, submitted an aerial photograph of his property (Exhibit "PPPP".) Dr. Browning stated that his intentions are to preserve the wetlands as stated in his Conservation Easement that restricts use to biology and botany research. Dr. Browning voiced his concern for long-term impact of heavy metal and petroleum product run-off.

Catherine Bakke, 77 White Plains Road, spoke in opposition.

Curtis Brockway, 537 Scotland Road, spoke in opposition.

Kathy Delaney, 138 Hansen Road, spoke in opposition.

Joseph Molcan, 188 Hansen Road, spoke in opposition.

Barbara Doherty, 111 Hansen Road, spoke in opposition.

Lucy Cilley, 120 Hansen Road, spoke in opposition.

As there were no more wishing to speak in opposition, and upon motion by Ralph Page and second by Jeremiah Lowney, the Commission voted unanimously to take a 5-minute recess.

The Commission reconvened and the floor was opened to the applicant for rebuttal. Mr. Fortunato stated that numerous test points have been done, and that all affected areas have been cleaned and excavated to bedrock in addition to post-excavation sampling. Mr. Fortunato stated that while Mr. Logan has never visited the site of application, he himself has and saw no evidence of a vernal pool.

Mr. Thibeault stated that the plans have been reviewed with City Engineer Barry Ellison and that they meet the City design standards. Mr. Thibeault re-stated that all proposed drainage systems meet City standards.

Commission questioned why there was such an extreme variation between engineers. Atty. Sherwood rebutted that Mr. Logan is questioning the opinion of the City Engineer however Mr. Logan is not qualified to make the statements as such. Atty. Sherwood also stated that Mr. Goodin's criticism is relative to overdevelopment and the IWWCC doesn't address overdevelopment.

As there were no more wishing to speak in favor or opposition, Acting Chair Richard Morell closed the Public Hearing.

2. IWWCC-08-05 - Plain Hill Rd, Case St., Scotland Rd., Reservoir Rd., Rte. 12, Mohegan Park Rd., Rte. 169, Canterbury Tpke – Application of Algonquin Gas Transmission LLC for upgrades & improvements to existing natural gas transmission system.

Doug Lee recused himself from the application. Upon motion by Jeremiah Lowney and second by Ralph Page, the Commission voted 7:0 (Lee recused) to CONTINUE the public hearing to a special meeting of the IWWCC, date to be determined. (11/19/08 @ 5:00pm)

G. Old Business:

1. IWWCC – 08-04 – 60.6 acres of land on the west side of Scotland Road, the south side of White Plains Road and the east side of Hansen Road comprised of the following four parcels:
South side White Plains Road, Norwich Assessor's Map 17, Block 1, Lot 9, Norwichtown Development LLC, owner; 115 Hansen Road, Norwich Assessor's Map 22, Block 1, Lot 10, Norwichtown Development LLC, owner
West side Scotland Road, Norwich Assessor's Map 23, Block 1, Lots 1-3, Norwichtown Development LLC, owner; 145 Hansen Road, Norwich Assessor's Map 22, Block 1, Lot 5, Thomas R. and Colleen M. Abele, owner – Application of Norwichtown Development LLC - for Active Adult Community, including wetland/stream-crossing utilities.

Upon motion by Arthur Sharron and second by Brandon Hyde, the Commission voted 7:0 (Rothstein recused) to TABLE action on the application to the 12/04/2008 regular meeting of the IWWCC.

2. **IWWCC-08-05 - Plain Hill Rd, Case St., Scotland Rd., Reservoir Rd., Rte. 12, Mohegan Park Rd., Rte. 169, Canterbury Tpke** – Application of Algonquin Gas Transmission, LLC for upgrades & improvements to existing natural gas transmission system.

Upon motion by Doug Lee and second by Ralph Page, the Commission voted 7:0 (Lee recused) to TABLE the application to a special meeting of the IWWCC, date to be determined. (11/19/08 @ 5:00pm)

3. **IWWCC-URA-08-14 – 35 Alice Street** – Application of Michael and Laura Lieske for the installation of a 24' aboveground swimming pool.

Upon motion by Doug Lee and second by Ralph Page, the Commission voted unanimously to TABLE the application to a special meeting of the IWWCC, date to be determined. (11/19/08 @ 5:00pm)

4. **IWWCC-URA-08-15 – 252 Taftville-Occum Road** – Application of Raymond Dussault for construction of two single-family homes.

Upon motion by Doug Lee and second by Ralph Page, the Commission voted unanimously to TABLE the application to a special meeting of the IWWCC, date to be determined. (11/19/08 @ 5:00pm)

5. **IWWCC-URA-08-16 - 153 Hunters Road & 115 Merchants Ave.** – Application of Poremah Villa Estates, LLC/Joseph McMahon – 89-unit Active Adult Community.

Upon motion by Doug Lee and second by Ralph Page, the Commission voted unanimously to TABLE the application to a special meeting of the IWWCC, date to be determined. (11/19/08 @ 5:00pm)

H. New Business: None

- I. **New Business items submitted after agenda preparation and prior to the submission deadline.**

1. **IWWCC-08-08 – 8 Wisconsin Avenue** - Application of Norwich Woods Apartments, LP II for construction of multifamily development & associated site improvements.

Upon motion by Brandon Hyde and second by Arthur Sharron, the Commission voted unanimously to TABLE the application to the 12/04/2008 regular meeting.

J. Other Business:

1. **50 Town Street** – Chelsea Groton Savings Bank retaining wall

Upon motion by Brandon Hyde and second by Arthur Sharron, the Commission voted unanimously to TABLE discussion to the 12/04/2008 regular meeting.

K. Violations:

1. IW-VIOL – 07-01-81 Corning Rd- Kudlach- update
2. IW-VIOL – 07-02-150 Plain Hill Rd – Rothstein - update

Upon motion by Brandon Hyde and second by Arthur Sharron, the Commission voted unanimously to TABLE discussion of items K1 & K2 to the 12/04/2008 regular meeting.

L. Adjournment

Upon motion by Brandon Hyde and second by Doug Lee, the Commission voted unanimously to adjourn at 11:42 pm.

Respectfully submitted,
Tianne Phoenix Curtis
Recording Secretary

DRAFT

**Keith D. Ripley
9 Meadow Lane
Norwich, CT 06360
Phone: 860-886-5727**

**Chairman
Norwich Inland Wetlands, Watercourses and Conservation Commission
23 Union Street
Norwich, CT 06360**

September 23, 2008

Dear Chairman,

It is requested that this letter and its attachments be provided to the members of the Commission for their review and that it be made part of the official record of the Commission's October 2, 2008 consideration of Norwichtown Development, LLC application to the Commission.

It is noted that Attorney Sharp's response of July 1, 2008 to Findings and Recommendations from the Office of Policy and Management ("OPM") submitted to the Committee of the Continuing Legislative Committee on June 9, 2008 did not include any engineering data or a state department of health statement to support his argument that, "Accordingly, on-site septic and wells are not realistic solutions to serve the project." His statement, "In addition, much of the land along the sewer route is wetlands which are tributary to the Fairview Reservoir,,,,," further raises the question of what assurances is the applicant providing that this project, that would be pumped under pressure to the existing system, would not adversely impact surrounding wetlands.

Sincerely,

Keith D. Ripley

Attachments:

**OPM letter of June 9, 2008
Attorney Sharp letter of July1, 2008**

MURTHA CULLINA LLP

A T T O R N E Y S A T L A W

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July 1, 2008

Members of the Continuing Legislative Committee On State Planning and Development:

The Honorable Eric D. Coleman
The Honorable Art Feltman
The Honorable Jonathan A. Harris
The Honorable Leonard Fasano
The Honorable Craig A. Miner
The Honorable Joseph J. Crisco, Jr.
The Honorable Antonio (Tony) Guerrera
The Honorable Jack Malone
The Honorable Richard Roy
Room 2100
Legislative Office Building
Hartford, CT 06106

Dear Senators and Representatives:

I am writing on behalf of Norwichtown Development LLC to respond to Findings and Recommendations from the Office of Policy and Management ("OPM") submitted to the Committee on June 9, 2008 on my client's request for an interim change to the Locational Guide Map of the Conservation and Development Policies Plan for Connecticut, 2005-2010.

As set forth in the Findings, the City of Norwich ("City") waived its opportunity for a hearing on this application, and my client was not aware of any concerns that OPM had on the application until the agency's June 9 letter.

The application proposes a change to the Locational Guide Map from Rural to Neighborhood Conservation for approximately 40 acres of a 60 acre parcel. The remaining 20 acres is already subject to a recorded conservation easement.

The Locational Guide Map amendment is requested to allow municipal sewers and water to serve a proposed active adult community at the site, which the City of Norwich has encouraged through the adoption of special regulations providing for density bonuses. The City has indicated its ability and willingness to provide such services. See Attached Letter.

OPM has raised two objections to the application.

BOSTON

HARTFORD

NEW HAVEN

STAMFORD

WOBURN

MURTHA CULLINA LLP

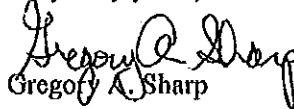
Members of the Continuing Legislative Committee
on State Planning and Development
July 1, 2008
Page 2

The first is a concern that the extension of sewers to serve the project would subject other areas along the route of the sewer designated as Rural and Conservation, which are not part of the application, to similar requests for changes. The short answer to this objection is that site conditions require that the sewer connecting the project to the existing system must be a force main, which means sewage from the project will be pumped under pressure to the existing system. As a result, other properties along its route will not be able to access the sewer. This fact makes the concern about secondary development moot. In addition, much of the land along the sewer route is wetlands which are tributary to the Fairview Reservoir and are unlikely to be developed.

The second objection is based on OPM's suggestion that a community septic system or alternative treatment system might provide for an on-site solution to allow the density allowed by the regulations. In connection with prior unsuccessful development proposals, extensive soil testing was performed to evaluate the suitability of site soils, and although the soils data indicated that the site could support septic systems for 24 homes, most would have required engineered systems due to mottling, ledge, water table, etc. At the densities provided by the Special Regulations, on-site septic is not a realistic option, because it would require the septic systems to extend into the regulated area around the wetlands at the site, which would not likely receive the approval of the Norwich inland wetlands and watercourses agency. Moreover, to serve the project with water on-site wells at the density provided by the Special Regulations, two wells would be required to withdraw water at a rate of 30-40 gallons per minute, which could impact abutting property wells and the wetland system at the site. Accordingly, on-site septic and wells are not realistic solutions to serve the project.

My client appreciates the opportunity to provide this information to the Standing Committee and requests that the Committee approve its request.

Very truly yours,


Gregory A. Sharp

Enclosure

cc: Senator Edith Prague, 19th Senate District
Bill Hogan, DEP
Peter Davis, Director of Planning & Neighborhood Services
Allen Bergren, City Manager
Benjamin P. Lathrop, Mayor
James Butler, Southeastern Connecticut Council of Governments
David Lavasseur, Undersecretary, Office of Policy and Management



**Norwich
Public Utilities**

April 30, 2008

Mr. Peter Davis
Director of Planning and Development
City of Norwich
Norwich City Hall
Norwich, CT 06360

Re: Wilcox Estates

Dear Peter,

Please be advised that Norwich Public Utilities has adequate water, sewer, natural gas, and electric capacity available to service the active adult community proposed for the Wilcox Sawmill site.

Please contact me with any additional questions you may have regarding this matter at 860-823-4192.

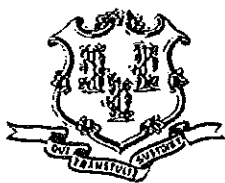
Sincerely,


John Bilda
General Manager

JFB/mla

Norwich
CONNECTICUT
NOW.

16 South Golden Street • Norwich, CT 06360 • 860-887-2555 • Fax 860-823-4172



STATE OF CONNECTICUT

OFFICE OF POLICY AND MANAGEMENT INTERGOVERNMENTAL POLICY DIVISION

June 9, 2008

Members of the Continuing Legislative Committee on
State Planning and Development:

The Honorable Eric D. Coleman
The Honorable Art Feltman
The Honorable Jonathan A. Harris
The Honorable Leonard Pasano
The Honorable Craig A. Miner
The Honorable Joseph J. Crisco, Jr.
The Honorable Antonio (Tony) Guerrero
The Honorable Jack Malone
The Honorable Richard Roy

Dear Senators and Representatives:

In accordance with Section 16a-32(b) of the Connecticut General Statutes and Section 16a-32-5 of the Regulations of Connecticut State Agencies, the Office of Policy and Management (OPM) hereby submits its Findings and Recommendations on the Norwichtown Development, LLC application for an interim change to the *Conservation and Development Policies Plan for Connecticut, 2005-2010 (C&D Plan)*.

Under State statutes, the Continuing Committee has thirty (30) days from receipt of OPM's recommendation to act on the proposed interim change application. My staff and I are available to meet with you at your convenience during this period, if you should have any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "W. David LeVasseur".

W. David LeVasseur, Undersecretary
Intergovernmental Policy Division

Cc: Senator Edith Prague, 19th Senate District
Bill Hogan, DEP
Peter Davis, Director of Planning & Neighborhood Services
Alan Bergren, City Manager
Benjamin P. Lathrop, Mayor
Gregory A. Sharp, Murtha Cullina LLP
James Butler, Southeastern Connecticut Council of Governments

Findings and Recommendations

Norwichtown Development, LLC.

Request for an Interim Change to the Locational Guide Map Conservation and Development Policies Plan for Connecticut, 2005-2010

In accordance with Section 16a-32(b) of the Connecticut General Statutes and Sections 16a-32-1-6 of the Regulations of Connecticut State Agencies, Norwichtown Development, LLC requests an interim change to the Locational Guide Map of the State's Conservation and Development Policies Plan (C&D Plan).

Norwichtown Development LLC., requests that the C&D Plan designation for a 59.9-acre parcel bounded by Scotland Road on the East, and Hansen Road to the West, be changed from "Rural" to "Neighborhood Conservation" (see attached maps). In accordance with state regulations, the City of Norwich was afforded the opportunity to request a joint public hearing with OPM and the Continuing Committee regarding this application. The City opted to waive its right to a public hearing.

Background

The request is a result of Norwichtown Development's desire to develop an "Active Adult Community" on the subject property. The easterly third of the property, adjacent to Scotland Road is subject to a recorded conservation easement and is not part of the requested change in designation. The current zoning designation is R-80, which according to the City's zoning regulations requires an 80,000 square foot minimum lot size (approximately 1.8 acres) or 0.5 units per acre. The applicant has indicated that under Special Regulations the property would be eligible for development of a greater density if its use were restricted to an "Active Adult Community." The Density Standards for an Active Adult Community would allow up to 8 units per acre.

The applicant asserts that in order to facilitate this development it is necessary to extend public water and sewer to this parcel. The current Rural Lands designation would prohibit the use of state funds supporting the introduction of such infrastructure to this area. Thus, the applicant is requesting a change to a Neighborhood Conservation designation whereby the extension of infrastructure would be consistent with the C&D plan.

Recommendation

OPM recommends that the Continuing Committee not approve Norwichtown Development's request to change the sites' C&D designation from "Rural" to "Neighborhood Conservation." In order to provide this site with access to public water and sewer, it would require the extension of public water and sewer approximately 5,000 feet. Nearly 2,500 feet of this would go through areas designated as Rural and Conservation areas, which are not addressed in this application, before reaching the subject property. OPM's concern is that such an extension would facilitate further intensive development in these areas that are not subject to a change under this

application. In doing so, the potential exists for further requests for changes to the C&D Plan's Locational Guidemap requiring the action of OPM and the Continuing Committee.

In addition to potential impacts on other areas, OPM questions the necessity for the change at this time. The applicant indicates that the City's zoning regulations require that Active Adult Communities be connected to public water and sewer. However, Section 7.6.4(h) of the Norwich zoning ordinance states:

"Sanitary Requirements. All such buildings shall be connected to public water and sanitary sewerage systems, or private sewerage systems which meet the requirements of local and state department of health."

OPM is not aware if the applicant has investigated the potential of on-site alternatives for water and sewer in this area such as a community septic system or alternative treatment technologies. The use of such technologies, when constructed properly, can provide for the type of development density the applicant seeks. Such alternatives could negate the need to extend public utilities to the subject parcel, yet still accommodate cluster type or "Conservation Development" techniques that are supported in the C&D Plan for Rural Lands.

The City of Norwich has waived its right to a public hearing with regard to this application. As a result, OPM must make this recommendation based solely on the information presented by the applicant. OPM is not aware of any previous approvals issued at the local level, including a willingness or capacity to service this area with public water and sewer. Further OPM is not aware of any measures that may be in place to limit development densities that may be achieved in the additional areas not subject to this application, through the introduction of this infrastructure. Similarly, OPM is not aware of any provisions for open space preservation or "Conservation Development" techniques that may be planned on site. The City's plan of conservation development does encourage development of elderly housing yet also encourages the maintenance of low-density development within this particular area (known as the "Plain Hill" area). Additionally, the plan suggests that subdivision design should be done in accordance with the natural carrying capacity of the land, which is consistent with the current designation of Rural Lands.

In light of these issues, OPM recommends that this area remain designated as Rural Lands. There are significant areas in Norwich designated for growth where the use of state funding for infrastructure and development of this nature would be more appropriate. Neighborhood Conservation areas are typically already developed, dense residential areas with existing infrastructure. Generally, state policy for these areas is to promote infill development where the infrastructure to support it exists. Considering the low-density zoning of the area, OPM believes a change from Rural to Neighborhood Conservation would not be appropriate for this area.

Norwichtown **Development, LLC** **Proposed Interim Change**



Conservation and Development
Policies Plan for Connecticut
2005-2010
Locational Guide Map



- Legend**
- ☐ Towns
 - ☐ Tribal Settlement Area
 - Streets**
 - Interstate
 - U.S. Route
 - State Highway
 - Local Road
 - Rail
 - Conservation Policies**
 - Existing Preserved Open Space
 - Preservation Area
 - Conservation Area
 - Rural Lands
 - Aquifer Protection Area
 - Historic Districts
 - Development Policies**
 - Regional Center
 - Neighborhood Conservation
 - Growth Area
 - Rural Community Center
 - ☐ Proposed Change